

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Conception Junction Post Office
Conception Junction, Missouri

Docket No. A2012-5

ORDER AFFIRMING DETERMINATION

(Issued January 26, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 5, 2011, Richard L. Holtman (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Conception Junction, Missouri post office (Conception Junction post office).² The Final Determination to close the Conception Junction post office is affirmed.

II. PROCEDURAL HISTORY

On October 7, 2011, the Commission established Docket No. A2012-5 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 20, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

² Petition for Review received from Richard L. Holtman regarding the Conception Junction, Missouri post office 64434, October 5, 2011 (Petition). The Petition also contains a list of 85 signatures appended to the document opposing the closure of the Conception Junction post office.

³ Order No. 901, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 7, 2011; Notice of Erratum, October 7, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 20, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Conception Junction, Missouri Post Office and Establish Service by Rural Route Service (Final Determination). The table of contents in the Administrative Record identifies the Final Determination as Item No. 43, however, in the substance of the Administrative Record, it is Item No. 47.

⁵ United States Postal Service Comments Regarding Appeal, November 29, 2011 (Postal Service Comments).

Petitioner filed a participant statement supporting his Petition.⁶ On December 14, 2011, Petitioner filed a reply brief.⁷ On December 21, 2011, the Public Representative also filed a reply brief.⁸

III. BACKGROUND

The Conception Junction post office provides retail postal services and service to 46 post office box customers. Final Determination at 2. One-hundred-fifty (150) delivery customers are served through this post office. The Conception Junction post office, an EAS-11 level facility, has retail access hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 9:50 a.m. on Saturday. Lobby access hours are 24 hours daily, Monday through Friday, and 8:00 a.m. to 1:00 p.m. on Saturday. *Id.*

The postmaster position became vacant on May 8, 2010 when the Conception Junction postmaster was promoted. An officer-in-charge (OIC) was installed to operate the post office. Retail transactions average nine transactions daily (10 minutes of retail workload). Post office receipts for the last 3 years were \$24,339 in FY 2008; \$21,881 in FY 2009; and \$17,054 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$66,295 annually. *Id.* at 8.

⁶ Participant Statement received from Richard Holtman regarding the Conception Junction, Missouri post office 64434, November 7, 2011 (Participant Statement). On November 9, 2011, Petitioner filed a second participant statement that contains substantially the same information. It also includes letters from customers that Petitioner claims were not part of the official Administrative Record available for viewing at the affected post offices.

⁷ Reply Brief to United States Postal Service Comments Regarding Appeal, December 14, 2011 (Petitioner Reply Brief).

⁸ Reply Brief of the Public Representative, December 21, 2011 (PR Reply Brief). The accompanying Motion of Public Representative for Late Acceptance of Reply Comments, filed December 21, 2011, is granted.

After the closure, retail services will be provided by the Stanberry post office located approximately 10 miles away.⁹ Delivery service will be provided by rural carrier through the Stanberry post office. The Stanberry post office is an EAS-16 level post office, with retail hours of 8:00 a.m. to 11:00 a.m. and 12:00 p.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 10:30 a.m. on Saturday. Fifty-one (51) post office boxes are available. *Id.*

Retail services will also be available at the Conception post office, located approximately 2 miles away.¹⁰ The Conception post office is an EAS-11 level post office, with retail hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. Twelve (12) post office boxes are available. *Id.* The Postal Service will continue to use the Conception Junction name and ZIP Code. *Id.* at 7, Concern No. 4.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Conception Junction post office. He states that the post office plays a vital role in the Conception Junction community and contends that closing the post office would particularly harm senior citizens or persons with disabilities. Petition at 1. Petitioner is concerned about mailbox vandalism, mail theft, and identity theft. *Id.* He asserts that the Postal Service is prohibited from closing a post office solely for operating at a deficit. Petition at 1; Participant Statement at 3.

Petitioner contends that closing the Conception Junction post office and receiving rural delivery service will not provide the Conception Junction community with a maximum degree of regular and effective postal services. Participant Statement at 2.

⁹ MapQuest estimates the driving distance between the Conception Junction and Stanberry post offices to be approximately 10.99 miles (15 minutes driving time).

¹⁰ MapQuest estimates the driving distance between the Conception Junction and Conception post offices to be approximately 2.61 miles (4 minutes driving time).

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Conception Junction post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Conception Junction community; and (3) the economic savings expected to result from discontinuing the Conception Junction post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Conception Junction post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Conception Junction post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little expected growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Conception Junction community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Conception Junction community, economic savings, and effect on postal employees. *Id.* at 5-14.

Reply briefs. In his reply brief, Petitioner argues that the Postal Service failed to follow proper procedures required by law because it did not make a complete copy of the Administrative Record available during the Final Determination posting period.

Petitioner Reply Brief at 1. Petitioner also contends that the Postal Service prematurely sent a letter to post office box customers informing them to either erect a mailbox or obtain a post office box at another post office while the appeal was pending. *Id.* at 1-2.

Public Representative. The Public Representative states that the Postal Service has complied with the statute and its own rules in reaching its Final Determination to close the Conception Junction post office. PR Reply Brief at 5. He concludes that the Postal Service has adequately considered the effect the closing would have on the Conception Junction community, but contends the analysis with regard to effect on employees and economic savings is inadequate. *Id.* at 6. He states that the Postal Service's calculation of economic savings is overstated. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to

present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in reaching its Final Determination. On March 29, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Conception Junction post office. Final Determination at 2. A total of 212 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 55 questionnaires were returned. On April 14, 2011, the Postal Service held a community meeting at the St. Columba Church Hall to address customer concerns. Thirty customers (30) attended. *Id.*

The Postal Service posted the proposal to close the Conception Junction post office with an invitation for comments at the Conception Junction, Conception, Clyde, and Stanberry post offices from May 17, 2011 through July 18, 2011.¹¹ Final Determination at 2. The Final Determination was posted at the same four post offices from September 1, 2011 through October 3, 2011. Postal Service Comments at 5; Administrative Record, Item No. 49.

Petitioner argues that the Postal Service did not make a complete copy of the Administrative Record available during the Final Determination posting period. Petitioner Reply Brief at 1. The Postal Service responds that the complete Administrative Record was not initially made available because of an error. Postal Service Comments at 3 n.6. It explains, however, that this error was remedied by re-stamping and re-posting the Final Determination at all affected post offices for the

¹¹ The Final Determination states that the proposal was posted at the Conception Junction, Conception, and Stanberry post offices. *Id.* at 2. However, the Postal Service's comments and the Administrative Record indicate that the Final Determination was also posted at the Clyde post office. Postal Service Comments at 5; Administrative Record, Item No. 35.

mandatory 30-day period with the complete Administrative Record available. *Id.* at 3-4 n.6.

Petitioner also contends that the Postal Service prematurely sent a letter to post office box customers while the appeal was pending announcing that the Conception Junction post office would close on November 5, 2011. Petitioner Reply Brief at 1-2. The Postal Service responds that the letter was sent before the Commission formally accepted the appeal. Postal Service Comments at 3 n.5. It affirms that upon receiving notice of Petitioner's appeal, a notice was posted at the Conception Junction post office notifying customers of the appeal and stating that the post office would not close until after the appeal process has been completed. *Id.*

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Conception Junction, Missouri is an incorporated community located in Nodaway County, Missouri. Administrative Record, Item No. 16. The community is administered politically by City of Conception Junction. Police protection is provided by Nodaway County Sheriff's Department. Fire protection is provided by Tri-C Volunteer Fire Department. The community is comprised of the self-employed, farmers, retirees, and commuters. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal

Service met with members of the Conception Junction community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Conception Junction post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6-8.

Petitioner raises the issue of the effect of the closing on the Conception Junction community. Petition at 1; Participant Statement at 2. The Postal Service contends that it has considered this issue and that the community identity will be preserved by continuing the use of the Conception Junction name and ZIP Code. Postal Service Comments at 10.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Conception Junction postmaster was promoted on May 8, 2010 and that an OIC has operated the Conception Junction post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. Postal Service Comments at 13.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Conception Junction post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Conception Junction customers. Postal Service Comments at 6. It asserts that customers of the closed Conception Junction post office may obtain retail services at the Stanberry post office located 10 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Stanberry post office. *Id.* The 46 post office box customers

may obtain Post Office Box service at the Stanberry post office, which has 51 boxes available. *Id.*

For customers choosing not to travel to the Stanberry post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 7.

Petitioner contends that rural delivery service will not provide the Conception Junction community with a maximum degree of regular and effective postal services. Participant Statement at 2. In particular, he is concerned about receiving daily local newspapers on time. *Id.* The Postal Service responds that it has confirmed that the closure of the Conception Junction post office would not cause a delay in the delivery of the mail, and it contends that there is no basis to conclude that newspaper delivery will be delayed. Postal Service Comments at 9.

Petitioner is also concerned about mailbox vandalism, mail, theft, and identity theft. Petition at 1. The Postal Service states that while only two incidents of vandalism have been reported, customers may place a lock on their mailboxes. Postal Service Comments at 8.

The Public Representative contends that the provision of regular and effective postal services will be maintained after the closure of the Conception Junction post office. PR Reply Brief at 6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$66,295. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$69,142) and annual lease costs (\$5,220), minus the cost of replacement service (\$8,067). *Id.*

The Public Representative asserts that the estimated savings are overstated because they use the salary and benefits of a postmaster rather than the OIC currently operating the post office. PR Reply Brief at 7.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Conception Junction post office postmaster was promoted on May 8, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. Postal Service Comments at 13. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Conception Junction post office has been staffed by an OIC for over a year and a half, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner alleges that the Postal Service is closing the Conception Junction post office solely for economic reasons. Participant Statement at 3.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Conception Junction post office (revenues declining and averaging only nine retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it

considered the alternate delivery and retail options available to customers. *Id.* Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Conception Junction post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Conception Junction post office is affirmed.

It is ordered:

The Postal Service's determination to close the Conception Junction, Missouri post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Conception Junction post office has been operated by an officer-in-charge (OIC) since the former postmaster was promoted on May 8, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. The savings from substituting OICs in postmaster positions throughout the nation has already been included in those billions. Counting the savings of a full postmaster salary is in effect double counting. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

In addition, the Postal Service has designated the administrative receiving post office for Conception Junction postal customers as the post office in Stanberry, Missouri, approximately 11 miles from the post office to be closed. The designation of the administrative receiving post office can be significant to local postal customers

because that will be the location where undeliverable or accountable items are retrieved, where some parcels must be deposited, or certain other “in-person” business is conducted. The Administrative Record does not address with specificity reasonable customer concerns about the large travel distance to the new administrative post office. Without a more complete explanation of how removing the applicable retail facility to such a distant point will affect the community, the Postal Service has not satisfied its obligation to consider the effect of such a closing or consolidation on the community served by the post office, as required by 39 U.S.C. § 404(d)(2)(A)(i).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Conception Junction and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since May 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Conception Junction post office is unsupported by evidence on the Administrative Record and thus, should be remanded.

Nanci E. Langley